

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

MARLON BOWLES)
)
Plaintiff,)
)
vs.) Case No. 1:20-cv-07413
)
ABBVIE INC., ABBVIE 1-100)
AND ABBOTT 1-100)
)
Defendants.)

**DEFENDANT ABBVIE INC.’S UNOPPOSED MOTION REGARDING EXTENSION OF
PAGE LIMITS FOR ITS UPCOMING MEMORANDUM IN SUPPORT OF ITS
MOTION TO DISMISS PLAINTIFF’S SECOND AMENDED COMPLAINT**

Defendant AbbVie Inc. (“AbbVie”) respectfully submits this Motion and requests approval to extend the page limit for its upcoming Memorandum in Support of its Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6) (“AbbVie’s Brief” or “Brief”) to total no more than 21 pages. In support of this Motion, AbbVie states as follows:

1. AbbVie intends to file its third Rule 12(b)(6) Motion to Dismiss and Brief on May 13, 2021, which is 14 days after Plaintiff filed his Second Amended Complaint. [Dkt. No. 36]. The previous two motions to dismiss were based on the same grounds as the upcoming one—that complete dismissal is proper under a Texas statute, which provides AbbVie with a presumption of non-liability in this case. Plaintiff has yet to substantively respond in opposition to either of AbbVie’s previous two dispositive motions.

2. AbbVie filed its most-recent motion to dismiss Plaintiff’s First Amended Complaint on March 18, 2021. [Dkt. Nos. 23, 24]. Prior to filing that motion and brief, AbbVie asked the Court for permission to extend the page limit of its brief to not exceed 20 pages, and the Court granted AbbVie’s request. [Dkt. Nos. 21, 22]. AbbVie again anticipates that its

upcoming Brief may exceed the 15-page limit set by this Court's Local Rules. *See* Local Rule 7.1 ("a brief in support of . . . any motion . . . shall [not] exceed 15 pages without prior approval of the court.").

3. AbbVie respectfully requests approval to extend the page limit for its Brief to total no more than 21 pages.¹ AbbVie's Brief will exceed the 15-page limit because of the numerous legal issues and authorities that must be addressed and explained for the Court's consideration, including (a) why Texas's substantive law applies under the Restatement (Second) of Conflict of Laws, (b) how Plaintiff's Amended Complaint fails under Texas Civil Practice and Remedy Code § 82.007, which provides manufacturers of FDA-approved drugs with a presumption of non-liability for claims based on "warnings or information", and (c) why Plaintiff's Second Amended Complaint fails under *Twombly* even if some of his claims are not based on "warnings or information."

4. The parties have conferred, and the relief requested in this Motion is unopposed.² Moreover, considering the numerous issues addressed in AbbVie's Brief as mentioned above, AbbVie requests that Plaintiff be afforded the same page-limit (21) in his Response Brief.

WHEREFORE, AbbVie respectfully requests that the Court approve its request and enter the concurrently submitted Proposed Order extending the page limit for AbbVie's Brief to total no more than 21 pages.

Dated: May 10, 2021

¹ AbbVie seeks one additional page from its March 2021 page-limit extension request largely because of the need to explain recent procedural history in the background section of the Brief.

² Plaintiff does not agree with AbbVie's characterization of his Second Amended Complaint or the arguments AbbVie advances in favor of dismissal. For purposes of this Motion, Plaintiff simply does not oppose an extension of the page limit.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 10, 2021, the foregoing document was filed using the Court's CM/ECF system, which will send notification of this filing to all attorneys of record who have registered for CM/ECF updates.

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